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SUBJECT: MADAGASCAR 2009 TRAFFICKING IN PERSONS REPORT

REF: A) 08 ANTANANARIVO 164
B) 08 ANTANANARIVO 764
C) 08 STATE 132759
D) 07 ANTANANARIVO 0557

11. (SBU) SUMMARY: While Madagascar is not a confirmed source or destination for internationally trafficked men and women, during the year there were reports of labor and sex trafficking in persons (TIP) within the country's borders. Cultural values, poverty, corruption, lack of funding and capacity, and weak law enforcement all hampered the Government of Madagascar's (GOM) efforts to combat trafficking. A series of legislative achievements and hands-on efforts in 2007 and 2008 have pushed the GOM's fight against human trafficking into the field via training programs, victim assistance, and awareness campaigns. This drive seems to have slowed in 2008, however, as the laws have not been implemented effectively across the country. A lack of statistics hampers efforts to monitor results, but the evidence suggests that despite continued vocal support from the national leadership, extensive work from the international community, and engagement at the regional level, change on the ground has been slow to come. END SUMMARY.

12. (SBU) The Embassy Point of Contact for TIP is Political Officer Jeffrey Hulse. Mr. Hulse can be reached via email at HulseJA [at] state.gov, by telephone at +261 20.22.212.57, or by fax at +261 20.22.251.71. EmbOffs spent approximately 80 hours speaking with contacts, researching, and writing this report; POL FSN spent approximately 8 hours supporting those efforts. The POL/ECON Chief and Defense Attache spent approximately two hours during the clearance process.

13. (U) As requested in Ref C, Embassy Antananarivo submits the following information, keyed to the questions in paragraphs 23-27 that are applicable to Madagascar's situation.

23: (U) THE COUNTRY'S TIP SITUATION

1A. (U) The GOM and local NGOs are anxious to document the extent and nature of trafficking, but lack of funding and institutional capacity remain a significant impediment to these efforts. However, in 2008, the GOM began collecting national level data, and established several databases to facilitate the process. The U.S. Department of Justice's International Crime Investigative Training Assistance Program (ICITAP) funded the creation of a Criminal Analysis Center, including a criminal network database, completed in September 2008. UNICEF plans to link a new database created at the

Ministry of Justice with this police database. A database to track foster care and adoptions was also installed by the Ministry of Health and Family Planning in 2008.

The government's statistical agency, INSTAT, in collaboration with the International Labor Organization's (ILO) International Program on the Elimination of Child Labor (IPEC), published the results of a nationwide household survey that gave the first reliable figures on child trafficking in at least a decade. Unfortunately, INSTAT does not have technicians capable of doing an in-depth interpretation and analysis of data. An international consultant, funded by UNICEF, is in the process of analyzing the data; results will be published by the end of March 2009. Data from a baseline study of child (5-18 years) victims of trafficking in high risk sites will be published in September 2009 by PACT, a non-governmental organization (NGO) that just initiated anti-trafficking activities this year.

In addition, each International Organization (IO) and NGO that works on anti-trafficking projects either collects data in their respective intervention zones or conducts studies to document the welfare and treatment of vulnerable persons. Catholic Relief Services (CRS) will compile statistics on knowledge, attitudes, and behaviors of parents, vulnerable persons, and school youth in three regions where they work; this will be available by June 2009.

A UNICEF study on the Migration of Children and Women between South West Islands of the Indian Ocean (Madagascar, the Seychelles, Mauritius, and the Comoros archipelago, including Mayotte) is underway. The study was undertaken to provide information on the possible linkages between child migration, trafficking, and sexual exploitation. Findings will be available and shared with the GOM

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during the first trimester of 2009. However, preliminary results do not indicate any cases of migrant labor from Madagascar to the other islands.

1B. (U) Madagascar may be a country of origin for internationally trafficked women for domestic servitude or sexual exploitation, outside of the Indian Ocean region. Though there is little concrete proof, news sources and anecdotal evidence suggest that Lebanon may be a destination country for trafficking of Malagasy persons. An August 2008 report from Human Rights Watch on migrant domestic workers in Lebanon showed that one Malagasy woman died at the age of 22; such workers are perishing at a rate of nearly one per week, half from suicide. Forced confinement, excessive work demands, employer abuse (including food and water deprivation), and financial pressures were factors that contributed to these deaths. A news article mentioned that Malagasy workers were recruited to work in Lebanon in 1998, of which 55 were repatriated in 2002. Staff from an IO working in Lebanon observed that several Malagasy women seen in airplanes or at the airports in the country may have been trafficked. Further investigation is warranted.

Illegal adoption, a problem identified in 2004, is no longer considered a threat in Madagascar. With the revision of the 2007 law to regulate adoption procedures, there have only been several cases seen through the legal system this year, and no judgments have taken place to date. The punishment for committing an illegal adoption, which constitutes trafficking in persons, is forced labor for life. The adoption of Malagasy infants is thus fairly well-regulated, although the practices of adoption centers are sometimes not: UNICEF recently reported a new practice in which the centers benefit financially from pressuring families to put up their children for adoption. The suspension of international adoption and stricter laws for domestic adoption have also caused longer wait times, which is particularly hard on children who were needlessly taken from their families.

Trafficking within the country's borders occurred in 2008. Local and national newspapers published many trafficking-related stories across the country, several of which are referenced here. The following anecdotes and national or project-level statistics concentrate on the trafficking of children; unfortunately, there is little information available on trafficking of persons over the age of 18.

Child trafficking has been a longstanding problem that is currently exacerbated by the rapid development of the mining and tourism industries. The National Child Labor Survey in Madagascar, conducted by ILO-IPEC in 2007, represents Madagascar's first reliable baseline data on child labor. It states that 438,000 children (7% of all Malagasy children ages 5-17 years, and 23% of all economically active children) fall into the "worst forms of child labor" category, which includes sex or labor trafficking. Of these, 91,000 were 5-9 years of age, 190,000 were 10-14 years of age, and 158,000 were 15-17 years of age.

Sex tourism is an increasing problem, particularly in coastal cities and Antananarivo, resulting in pervasive prostitution that is particularly visible in areas frequented by tourists. A 2007 study carried out by the Ministries of Tourism and Health and Family Planning, in collaboration with UNICEF, showed that commercial sexual exploitation of girls, as well as non-commercial exploitation, is significant in Nosy Be and Tamatave. Between 30 and 50 percent of female sex workers were under 18 years of age. Also, in Nosy Be it was not unheard of for parents to "give" their children to foreign men, or for Malagasy men to "give" their wives to sexual tourists, in exchange for money.

A significant number of children work as laborers, domestic servants, and prostitutes in and around Madagascar's various mines, although it is unclear how many of these cases are considered trafficking. The three largest locations of mine-related labor and sexual exploitation are the salt mines around Tulear, the gemstone mines surrounding the southern town of Ilakaka, and the granite mines near Antananarivo. Many of these children work within the family unit, often sifting through miners' discarded piles of dirt in the hopes of finding stones; or in the case of adolescents, they flock to the sites and willingly work for extremely low wages in the mines, or become domestics or prostitutes by finding clients on

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their own.

Some traditional practices contribute to the trafficking of children. For example, in the Ihosy (south central) region, it is a traditional practice for parents to sell their daughters at age 12 into marriage, typically in exchange for cattle, to the highest bidder. After one year of marriage, parents often force their daughters to divorce and remarry to receive additional goods. Forced marriage at an early age is considered a form of trafficking; parents reap the benefits, while the young girls are often victims of physical and mental abuse. This year over 120 young girls fled from cities in the south because of forced marriage, abandoning their families and homes and becoming involved in prostitution primarily in the towns of Tulear, Ilakaka, and Sakaraha. Another traditional practice, although now less common, is the disposal or selling of a child within a set of twins, usually put up for illegal adoption.

1C. (U) The conditions into which victims are trafficked vary. While some children working as domestics are well-treated and attend school, others are neglected, exploited, and physically or sexually abused. Children working in the mining and agricultural sectors, or even as prostitutes, may endure dismal working conditions and are poorly compensated. In cities throughout the country, young girls and boys assist traveling vendors ("marchands ambulants") with the loading and selling of their merchandise. In some cases, they stay on working for the vendor as almost free labor; in others, they hitch a ride to the final destination where they may be left behind and not always paid for their work (see reftel D).

1D. (U) There are two primary groups that are more at risk for being trafficked in Madagascar: women and young girls for sexual exploitation and domestic servitude, and young boys and girls for forced labor, mining, and street vending. No specific groups or categories of children are disproportionately represented in figures reported by the ILO. Gender, ethnicity, and religion do not play a role; the extent to which children in different regions are engaged in certain activities is a result of economics and geography rather than discrimination. For example, due to sex tourism, high numbers

of children exploited as prostitutes are found in coastal cities, as well as Antananarivo. Child Protection Networks report that it is common for children to be trafficked from the countryside and placed as domestic servants in urban areas. In these circumstances, the conditions that put women and children at most risk are illiteracy, cultural traditions, and societal intimidation.

¶E. (U) There is limited information on the modus operandi of traffickers. Post reporting relied heavily on anecdotal information as well as a small number of studies. In the high-risk trafficking zones outside of the capital Antananarivo, NGOs discovered that traffickers operate on an individual basis, though there are sometimes predetermined connections with foreigners who plan to travel to the area. In Antananarivo, there are much larger agencies, such as marriage or job recruitment establishments, and trafficking networks who may sell trafficked Malagasy to unknown destinations outside of the country. However, there are not any published statistics or studies that have analyzed this phenomenon.

In the cases of sex and labor trafficking, victims are often lured by the promise of lucrative jobs. Principal traffickers include organized criminals, personal acquaintances, taxi drivers, and distant family members. There are cases where parents are complicit, tacitly endorsing the transaction, although some are unaware of the poor working conditions that await their children.

Preliminary findings of a household-level child trafficking survey indicate that there may be a network of traffickers recruiting children from rural areas for employment as domestic workers or prostitutes in urban centers. Trafficking of children can be found particularly in places with rich mining, agricultural, fishing, or traveling vendor sectors. For example, in Antsirabe, an industrial and agricultural zone on the central plateau, many youth are trafficked for domestic labor. It has also become more commonplace for "businessmen" to lure young children with clothes or cell phones in exchange for work. Even worse, they may lure parents into entrusting their children to them; later, these children often disappear and are sold into the trafficking market.

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Another emerging phenomenon in conjunction with the rise of foreign companies is that young women are trafficked for the weekend. In Moramanga, women are marketed to international workers at the local Ambatovy mine as companions for the weekend. Though most government officials and NGO contacts believe such recruitment is conducted by individuals, there are growing observations of complicity within an organized network, particularly among taxi/bus drivers.

A 2001 study carried out by the Ministries of Tourism and Health and Family Planning with UNICEF showed that traffickers in Nosy Be and Tamatave were mainly indigenous Malagasy persons, but could also be foreign tourists and laborers. UNICEF reported that this remained unchanged though there had been some positive behavioral change observed among hotel operators, who have become more likely to refuse room access to clients who sexually exploit children. UNICEF plans to expand this study to other mining and tourist sites in the country.

¶24. (U) SETTING THE SCENE FOR THE GOVERNMENT'S ANTI-TIP EFFORTS

¶A. (U) The President has expressed his commitment to eliminate trafficking in Madagascar. Not only has he publicly assured the legal protection of vulnerable persons (particularly in the fight against trafficking) as a priority in the Madagascar Action Plan (MAP), but in December 2008, the President conducted a field visit to the high-risk trafficking city of Nosy Be and made strong statements about the importance of protecting children against sex tourism. Through its commitment to organizing prevention campaigns, continue developing a database of cases, convene the Anti-Trafficking Committee on a regular basis, and develop a National Action Plan, the GOM acknowledges trafficking is a problem and aims to retain its Tier 1 status.

¶B. (U) The government systematically monitored its anti-trafficking efforts through the President's Inter-Ministerial Anti-Trafficking

Committee. At the regional level, Local Anti-Trafficking Boards (LABs) are made up of 18-20 ministerial members, much like those in the President's committee. The Committee and LABs are composed of the following Ministries:

The Ministry of Justice: As the lead ministry in the recently-adopted National Action Plan in the Fight Against All Forms of Violence Against Children, the Ministry held meetings clarifying the roles of each of the 30 responsible government actors. The Ministry of Justice has started to rotate magistrates to different jurisdictions around the country. The Ministry has also elaborated standards of conduct, organized joint meetings between magistrates, police and other key child protection stakeholders, and created a number of new offices in the Ministry to tackle these critical issues such as the Office of Integrity Promotion, Office of Jurisdictions Control, Office of Communication and Office of Human Rights and International Relations.

The Ministry of Labor: During the reporting period, the Ministry of Labor continued implementing its 15-year National Plan to Combat the Worst Forms of Child Labor, which often overlapped with anti-TIP efforts. Regional Committees to Combat Child Labor (CRLTE) in the north, southwest, and the east coast contributed to these efforts.

The Ministry of Youth and Sports: The Ministry of Youth and Sports designed an internal three-year anti-TIP action plan for 2007 to 2009. Its activities contributed to end-of-project goals: to reduce the number of TIP victims by 20 percent; to ensure 50 victims receive social services; and to raise awareness among 500,000 youth through social mobilization, radio and television, and other means.

The Ministry of Internal Security: The Ministry of Internal Security continued the use of its "Morals and Minors" police brigades to conduct both prevention and prosecution activities. At present, such brigades are operational in Tulear, Ile Sainte Marie, Nosy Be, Fort Dauphin, Morondava, Tamatave, Majunga, Diego Suarez, Fianarantsoa, Ambositra, and Antsirabe. The eventual goal is to set up such brigades in each of the 22 regions.

The Ministry of Interior: The Ministry of Interior continued the UNICEF-financed birth registration campaign launched in 2005. Before that time, Madagascar had no uniform birth registration system, a weakness traffickers have exploited to traffic undocumented

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children. According to a 2003-04 study by INSTAT, 25 percent of children in the country under the age of five were not registered. Since March 2007, 80 percent of the population in 119 districts has benefited from ministry-run awareness campaigns about the importance and procedures of birth registration. Ministry technicians started computerizing birth certificates in each of the 5,000-plus communes. The Ministry issued retroactive birth certificates in over 119 districts.

The Ministries of Health, Education, and Culture and Tourism also continued their TIP awareness-raising campaigns targeting children and tourism industry workers.

1C. (U) Though the GOM has improved the domestic legal framework, its efforts to combat trafficking are hampered by limited capacity to prosecute under the new law, the hesitation of the GOM to share trafficking-related issues with the public, a disconnect between central and regional level work, and cultural values and traditional practices.

The prosecution of perpetrators of labor and sex exploitation remains problematic, mainly due to deficient law enforcement, weaknesses in the legal system, and weak penalties to deter trafficking crimes. The Morals and Minors Brigade led the monitoring of the application of the anti-trafficking law, but weaknesses persist, including magistrates' difficulty using the law, delays and deficient information on court decisions, absence of information for victims and their families, the lack of a systematic transfer of data to the central level; confusion in regional case reporting from gendarmeries and police; and difficulties in handling child victim cases in general, often due to the lack of birth certificates or

difficulty of obtaining medical-legal certificates for abuse.

According to Ministry of Justice (MOJ) officials, the law has been actively disseminated to the 22 regions, and magistrates all over the country have been trained in its use. However, lack of precedent, lack of coordination among the ministries, and the lack of a presidential decree mandating and codifying its use may be hindering implementation of the law in practice. Without fully implementing a system for tracking such cases, MOJ officials leave open the possibility that individual jurisdictions may be using the law, but the evidence suggests this is unlikely.

One NGO cited a lack of coordination between central and regional level anti-trafficking planning and project/systems implementation. Deficiencies in validation and leadership from the central level act as a hindrance to the progress of the LABs. Also, without additional funding, LABs can only commit to achieving ongoing objectives, but will not be able to implement new measures that address gaps in services.

There is societal and cultural acceptance of early sexual activity, early childbearing outside of marriage, and prostitution as an economic activity. The 2004 ILO contribution to the National Action Plan to Combat Child Labor in Madagascar stated that "material rewards and sexuality have always been strongly associated in Malagasy society. A man's generosity towards a woman increases both his standing as well as [that of] the woman receiving gifts. In some parts of the country, girls from adolescence onward are expected to take care of their own material needs beyond food and lodging. It has traditionally been acceptable for girls to entertain male friends in separate living quarters to obtain clothing or other items. The step from this custom to overt sale of sex is small."

1D. (SBU) In September 2008, the U.S. DOJ's ICITAP program concluded a project to develop a central database for documenting and tracking trafficking cases nationwide. Training on the program was conducted both in the capital and in several high-risk regions, and it remains a positive example of increased cooperation between the Gendarmerie and the Police in this field. However, financial and legal issues threaten to derail the project: although operational for several months now, the center still lacks a presidential decree giving its work legal standing, and the financial backing for its future operations remains uncertain. The GOM can potentially use this database to report its anti-trafficking activities or statistics, though this has not yet occurred.

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125. (U) INVESTIGATION AND PROSECUTION OF TRAFFICKERS

1A. (U) In January 2008, the Malagasy Parliament adopted a law making trafficking in persons, sexual tourism, and sexual exploitation illegal. This comprehensive law stipulates sanctions for the authors of such crimes, particularly when committed against children, and prohibits both internal and transnational forms of trafficking in persons including sexual and labor exploitation (see appendix for full text). A full inventory of trafficking laws includes the following:

- Anti-Trafficking Law no. 2007-038 (December 2007, adopted January 2008)
- Law prohibiting all forms of violence against children (August 2008)
- Decree 2007-563 on child labor, including the worst forms of child labor, particularly articles 12 - 15 related to labor or sex trafficking
- Law no. 2007-023 on Child Rights and Protection details protective measures connected with abuse and exploitation
- Penal Code provision prohibiting pedophilia, statutory rape, and procurement of minors for prostitution

- Penal Code [Decree 1111, (1966)] barring young adults under the age of eighteen from nightclubs and discotheques
- Law no. 2007-022 stipulating the legal age for marriage is 18 years for both sexes
- Law no. 2003-044 of the Labor Code (July 2004)
- Convention 182 on the Worst Forms of Child Labor (2003)
- Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2001)
- Convention 138 on the minimum working age - set to 15 years (2000)

The ILO and UNICEF believe certain penalties related to the trafficking of children are considered to be inadequate to deter such crimes. The ILO is working with the Malagasy government to draft a new law with tougher sanctions.

B. (U) The prescribed and imposed penalties for trafficking people for sexual exploitation are as follows:

SEXUAL EXPLOITATION - According to Article 334 of the Penal Code, "Art. 334 quarter: Sexual exploitation, as defined by article 333 ter, is punishable by five (5) to ten (10) years of imprisonment and a fine of four to 20 million Ariary (USD 2,000 to 10,000). Any perpetrator committing sexual exploitation is sentenced to forced labor for life if committed on a child aged below fifteen years of age, regardless of gender.

PIMPING - According to Article 334-35 of the Penal Code, pimping cases involving minors and/or the use of force carry a sentence of five to ten years imprisonment and fines of four to 20 million Ariary (USD 2,000 to 10,000). Pimping of adults carries two to five years imprisonment with a fine of one to 10 million Ariary (USD 500 to 5,000). If pimping is conducted by an organized group, the punishment is forced labor and four to 40 million Ariary (USD 2,000 to 20,000). If torture or barbaric acts are involved, the punishment ranges from "forced labor" to life in prison. "Art. 334 ter: Anyone who hires, involves in or abducts for prostitution, an individual even if (s)he consents, is sentenced to two (2) to five (5) years of imprisonment and a fine of one to 10 million Ariary (USD 500 to 5,000). If the violation has been committed on a child under fifteen years of age, regardless of gender, the perpetrator is sentenced to forced labor for life."

PIMPING PUSH from FAMILY - Article 335.2 states that the father or mother or other ascendant, who encourages directly or indirectly

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child prostitution by letting a child live a liberal and independent life, thus enhancing sexual exploitation and/or tourism on the child, in a national or international setting, is sentenced to five (5) to ten (10) years of imprisonment and/or a fine of four to 20 million Ariary (USD 2,000 to 10,000). The same sentences apply if the perpetrator is either the brother or the sister of the underage victim or any individual holding a similar position in the family, i.e. any individual usually or occasionally living with the child and having authority over the child."

PORNOGRAPHY - According to Article 346-47 of the Penal Code, use of children in pornography carries a sentence of two to five years imprisonment and a fine of one to 10 million Ariary (USD 500 to 5,000). If the child is under 15 years of age, this punishment increases to three to ten years of imprisonment and a fine of four to 20 million Ariary (USD 2,000 to 10,000).

CHILD LABOR - Penalties for trafficking provisions of the Child Labor Law (Decree No. 2007-563) included in the Worst Forms of Child Labor are mostly addressed through the Penal Code including up to two years of imprisonment and fines up to MGA 2 million (USD 1,000).

1C. (U) The law stipulates penalties for trafficking for labor exploitation, labor recruiters who engage in recruitment of laborers using knowingly fraudulent or deceptive offers, and employers who switch contracts without the worker's consent as a means to keep the worker in a state of service. Article 262 of the Labor Code specifies that the penalties for trafficking for labor exploitation and "contractual fraud" are one to three years of imprisonment and one to four million Ariary (USD 500 to 5,000). While it is the responsibility of labor inspectors to note the infraction, open the investigation, and send the case to court, this rarely happens, as it is difficult to catch an employer in the act.

1D. (U) The prescribed penalties for rape or forcible sexual assault are as follows:

RAPE - Under the Malagasy Penal Code, the minimum penalty for rape is five years detention. If the rape involves a person less than fifteen years of age, the penalty is five years forced labor.

STATUTORY RAPE - Article 331 of the Penal Code states anyone attempting to have non-violent sex with a child under the age of 14 will be punished with five to ten years of imprisonment and a fine of two to ten million Ariary (USD 1,000 to 5,000).

INCEST - Article 335.3 states that any sexual intercourse among close parents or siblings up to the 3rd degree, in a direct or collateral line, whose marriage is prohibited by the law; or any sexual abuse committed by the father, the mother or any other ascendant or any individual having authority over a child is considered incest. Anyone who commits incest is sentenced to forced labor for life if the act is committed on a child. In other cases of incest, the perpetrator is sentenced to five (5) to ten (10) years of imprisonment and a fine of USD 2,170 to 10,800 (4,000,000 to 20,000,000 Ariary).

1E. (U) Though the new anti-trafficking law has been used in court on several occasions, it has not yet resulted in a prosecution. Also, there were no reports during the year of arrests specifically for trafficking. However, traffickers may be prosecuted under provisions prohibiting procurement of minors for prostitution, pedophilia, pimping, and deceptive labor practices.

A centralized database in the Criminal Analysis Center (see 23A) was established in September 2008 under the authority of the Secretary of State (now Minister) for Internal Security; it is now operational, but currently lacks the required legal standing for use in court, and is generally limited to cases in Antananarivo. Nevertheless, the GOM had difficulty providing information on specific trafficking cases. Officials at the Ministry of Justice must currently call each of the 36 jurisdictions to obtain statistics on such cases.

There were several known cases of trafficking-related prosecutions during the reporting period, although they did not use the specific anti-trafficking law. According to UNICEF, in Fort Dauphin, six

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child abusers were in the process of being prosecuted in 2008. In January 2008, a 60-year old man from Reunion was arrested for sexual exploitation of a minor in Nosy Be. Four other people from Reunion were considered accomplices and deported from the country. The offense took place at a French-owned establishment in Nosy Be. A foreign national was also imprisoned in Tamatave for sex tourism in September 2008. Also, three French citizens' cases for indecent assault or statutory rape were either dismissed or punished with suspended sentences, while the case of a French-Vietnamese couple being tried for pandering in January 2008 was dismissed for inability to overcome reasonable doubt. The verdict is under appeal, but has not yet been reexamined; the couple reportedly still operates a hotel in Nosy Be.

Techniques such as electronic surveillance and undercover operations are far too costly to be used by the GOM. The Ministry of Internal Security established a Morals and Minors Brigade in six major cities (see 24B). These specialized units respond to reports or complaints concerning children. The Brigade of Morals and Minors' prosecution

activities included conducting traditional investigations of a number of issues such as pimping, trafficking, and statutory rape.

¶F. (U) The National School of Magistrates and Clerks (ENMG) recently included approved legislation on child protection in its curriculum and the training of Magistrates, and conducted various Magistrate trainings at the central and field levels. These efforts complement trainings already conducted by the Ministry of Justice. In collaboration with the ENMG and UNICEF, the French NGO Groupe Developpement conducted trafficking legislation and child protection trainings that benefited 216 stakeholders in four high-risk sites and 1,500 people nationwide.

The Ministry of Justice, National Police, and Gendarmerie worked with UNICEF to develop training modules on child rights and safeguards for officials working in child protection networks. In June 2008, the GOM completed a one-year program to train and assist security forces in the protection of children, including how to recognize, investigate, and prosecute instances of trafficking.

¶G. (U) The GOM is beginning to actively cooperate with other governments in the investigation and prosecution of trafficking cases. The GOM has judicial cooperative agreements with France (Reunion) and Mauritius that are already being used as a basis for multilateral TIP efforts. Also, the Police cooperated with neighboring countries and Interpol in the investigation and prosecution of trafficking cases.

¶H. (U) The 2008 anti-trafficking law (see appendix) allows the GOM to extradite persons charged with trafficking in other countries and permits the extradition of Malagasy nationals. To date, however, the government has not extradited persons charged with trafficking in other countries, nor has it permitted extradition of Malagasy nationals.

¶I. (U) There are few examples as to how the government at any level tolerates or is involved in trafficking. In one specific case, officials in Tulear were issuing counterfeit identification cards to young girls. As many as two out of three young girls in Mangil and Ifaty (a beach destination 30km north of Tulear) are reported to have fake IDs. With increased access to night clubs, this practice perpetuates sexual exploitation of young girls by the foreigners or other wealthy locals that frequent these locations.

In areas of high sex tourism, some local officials feel frustrated by their institution's chronic lack of funding and resources for the investigation and prosecution of foreign pedophiles, and therefore develop a certain level of tolerance. Anecdotal evidence suggests that local police and magistrates in tourist areas often hesitate to prosecute foreign pedophiles due to corruption, pressure from the local community, or fear of an international incident. Additionally, numerous unregistered and unregulated small businesses create an environment in which trafficking-related activities can go unnoticed among other economic activities.

¶J. (U) Although some officials were punished in 2007 for colluding with traffickers or accepting bribes to overlook trafficking crimes, the Ministry of Justice was unable to report any such cases in 2008. Several of the cases reported in last year's TIP report did result

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in suspensions being served (the district chief and the president of the tribunal in Nosy Be, and the president of the tribunal in Fort Dauphin) or officials being relocated (as in the case of a prosecutor in Fort Dauphin), but no more severe punishments or new cases have been reported.

¶K. (U) Prostitution is not a crime, though the legal minimum age is 15 years. However, related activities, such as pimping, are illegal with greater punishment if conducted by an organized group or if torture or barbaric acts are involved. Only clients of underage prostitutes can be prosecuted. Perpetrators who commit sexual tourism can be prosecuted with more harsh sentences if committed on a child less than fifteen years of age. There is a regulation (Decree 1111, (1966), of the Malagasy Penal Code) barring those under the age of eighteen from nightclubs and discotheques and

subjecting offending owners to fines and jail terms. The regulation is not enforced uniformly due to lack of capacity and resources.

¶L. (U) The government provided pre-deployment anti-trafficking training to the 16 Malagasy soldiers deployed as part of a peacekeeping mission in Sudan. There were no reports of Malagasy soldiers engaging in severe forms of trafficking while on mission.

¶M. (U) Madagascar has confirmed a child sex tourism problem. The GOM was unable to provide statistics as to the total number of foreign pedophiles prosecuted during the year, though the traditional countries of origin for sex tourists include: Mauritius, Reunion, France, Italy, Spain, Germany, and Switzerland. The Embassy is aware of at least one major case in Nosy Be of a foreign pedophile (from Reunion) prosecuted in 2008, with others kicked out of the country.

¶26. (U) PROTECTION AND ASSISTANCE TO VICTIMS

¶A. (U) A July 2004 UNICEF project proposal states that "the government social welfare system is extremely limited due to a lack of human resources with relevant background and experience, the lack of government budget for activities, and low government salaries. Most welfare services are provided by international and local NGOs (like UNICEF)." While much of this still holds true, the GOM has made steady progress since 2004 to rescue victims and assist their reintegration.

A Child Rights Protection Network, which operates at the commune level, was created by the Ministry of Health and Family Planning, with support from UNICEF. In 2008, the network grew to include 65 communes (up from 14 in 2007), and UNICEF hopes to include the participation of over 200 communes by the end of 2009. The Network supports the coordination of several local level children's rights and protection entities, including the police, the gendarmerie, the Ministries of Education and Justice, and local authorities. The Network works to identify abuse cases and assures that victims have access to the appropriate social services available in each area. In addition, all stakeholders play a role in monitoring and reporting child rights violations and responding to the needs of the child. In Antananarivo, the "fiansos", or child protection networks, and the "celles de veille" (monitoring networks) are made up of neighborhood representatives that identify and follow child abuse cases (including potential trafficking victims) and inform the village chiefs.

¶B. (U) USG assistance to Catholic Relief Services (CRS) and PACT have resulted in the development of four Welcome Centers in Antananarivo, Tamatave, Tuléar and Nosy Be, which provide shelter, counseling, and reintegration assistance to victims of child abuse and trafficking. Children are sometimes placed with foster families as an emergency shelter and short-term housing arrangement. In addition, civil society, NGOs, and churches made their premises available for Child Protection Network activities - to be used as listening and emergency centers for victims of trafficking. PACT plans to establish emergency shelters for child trafficking victims. Personnel at these centers will help place children back in schools, provide professional training, and support vulnerable families by coordinating microfinance opportunities or income-generating activities. The GOM does not fund or operate any of these centers.

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The Ministries of Justice and Health and Family Planning collaborated to establish counseling centers in Antananarivo and Fianarantsoa for adult and child victims of a range of abuses, including sexual and commercial exploitation. The GOM has also established two Provincial Child Labor Monitoring Units in Diego Suarez and Antananarivo; it is seeking resources to staff a third unit in Tuléar.

¶C. (U) The GOM does not provide funding at the central or regional levels to support social, medical, or legal services for victims of trafficking. However, assistance provided by the GOM was in kind -

technical assistance, office space, etc. to NGOs and IOs. The ILO, one of the biggest donors to the Ministry of Labor, directly funded NGOs to provide protection services for child labor and trafficking victims. The USG (via USAID and DOL) and UNICEF provided a large proportion of the funding for trafficking victim services.

Welcome Center physicians provided medical and psychological counseling services, while Ministry of Labor inspectors taught job-finding skills to rescued victims. The GOM provides shelter, counseling, and reintegration assistance for victims through counseling and Welcome Centers, funded by donors through the GOM's Public Investors Program (PIP). While the GOM provides legal protection for victims, it does not provide physical protection outside of the Welcome Centers. Post was unable to access information regarding the number of victims who benefited from Welcome Center services.

The four UNICEF sites in Ambanja, Diego, Nosy Be, and Fort Dauphin offer trafficking victims counseling, emergency housing/fostering, police protection, legal services through specialized judges, and referral doctors who can identify cases of abuse.

1D. (U) The MOJ reported no foreign trafficking victims in 2008.

1E. (U) The GOM does not provide long-term shelter or other resources to victims of trafficking. However, centers funded or run by UNICEF, CRS, PACT, and the GOM (through PIP) offer assistance and often companionship throughout the entire process from identification of a victim to court cases to transport home. At these centers, rescued children under the age of 15 are reintroduced to the educational system; children over 15 receive vocational training and are placed with companies. In addition, certain welcome centers provide reinsertion activities such as cooking and embroidery classes, donation of materials such as sewing machines or rickshaws, and school registration to help reintegrate victims of trafficking.

In 2008, the GOM facilitated the reintegration of two young trafficked girls who were recovered from a protection network in Diego and returned to their families in Ambanja and Nosy Be. Services included transport back to their home towns and the means to enroll them in school.

1F. (U) The GOM does not have a formal referral process. However, NGOs or IOs managing welcome centers work within a network of individuals committed to taking care of trafficking victims. Concerned citizens refer victims to centers and then the centers' social service personnel will determine what type of support is needed (counseling, medical, police, legal) and provide transportation and accompaniment. An established governmental protection network, called the Child Rights Protection Network, created by the Ministry of Health and Family Planning with support from UNICEF, operates at the commune level with a three-pronged approach: 1) prevention, 2) identification and reinsertion/rehabilitation of child victims, and 3) prosecution of perpetrators through law enforcement. The coordinated effort of local level authorities from the police, gendarmerie, and Ministries of Education and Justice, act as an informal referral system. The need for such networks is illustrated by the increasing demand for services from 2007 to 2008 in all UNICEF-funded sites: child victims increased from 5 to 91 in Ambanja, 11 to 46 in Nosy Be, 0 to 18 in Fort Dauphin, and an unrecorded amount to more than 200 cases in Tamatave.

1G. (U) The new central database to track criminal cases will be helpful in the future in identifying trafficking victims (see 23A). However, as in previous years, this report relied on NGO and IO

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studies and reports to estimate and extrapolate the total number of trafficking victims. All of the identified victims were referred to care facilities, though there is no method of tracking who gave the referral, short of looking at individual records at each drop-in or emergency care shelter/center. The GOM did not have functioning government-funded assistance programs; 100% of the trafficking victims were assisted through NGO or IO funded centers.

In 2007 and 2008, CRS project Aina ("Life" in Malagasy) identified 24 total trafficking victims seen over the last two years and project Fitia ("Love") provided services to 203 trafficking victims. UNICEF reported the reintegration of two female trafficking victims in 2008. The 2007 National Child Labor Survey conducted by ILO registered over 400,000 children that are involved in the "worst forms of child labor", of which an unknown percentage would be considered trafficking. A national level estimate of the total number of trafficking victims in Madagascar will be available at the end of March 2009 from the ILO.

1H. (U) The GOM does not have a formal system to screen for potential trafficking victims among high-risk persons or those involved in the commercial sex trade. This is a gap that has been identified by NGOs and regional LABs; unfortunately, without funding it is difficult to move forward. Nevertheless, young girls who do not know that they are trafficked do not consider it trafficking. Therefore, any measures to screen for victims would have to involve the characteristics of trafficking, not the term itself.

1I. (U) Victims' rights are generally respected; they are not detained, arrested, jailed, fined, or prosecuted for violations of other laws. NGOs strive to respect the rights of trafficking victims, especially the right to confidentiality. However, despite NGOs' efforts to explain legal protection to women and girls, few lodged official complaints or sought redress when their legal rights were compromised due to illiteracy, cultural traditions, and societal intimidation.

1J. (U) The GOM encourages victims to assist in the investigation and prosecution of trafficking. Victims may file civil suits or seek legal action against the traffickers, and their right to seek legal redress is not impeded.

1K. (U) UNICEF developed a "Prosecution of Perpetrators" program in order to train police, gendarmes, magistrates, and social workers in the protection of children including how to recognize incidences of trafficking, investigate cases, and prosecute offenders. Training of the police and gendarmeries in the area of child protection was also linked with a US Embassy project on investigation procedures related to child sexual exploitation. Individuals involved in these training programs received a training guide on identifying abuse, a module on how to listen and support child survivors of abuse and exploitation, and a booklet on legislation and procedures to support the police and judges' work.

1L. (U) There have been no cases of repatriated nationals who were victims of trafficking in 2008.

1M. (U) IOs and NGOs such as UNICEF, Catholic Relief Services (CRS), PACT, Belle Avenir (a Malagasy NGO), Groupe Developpement (a French NGO), and Enfants du Monde (a French NGO) have the GOM's endorsement to provide basic services to trafficking victims.

UNICEF works in four high-risk locations: Ambanja, Diego, and Nosy Be in the north, and Fort Dauphin in the south to provide youths and their families with adequate information, education, and life skills to prevent them from becoming victims of abuse, exploitation, and trafficking. They have trained over 3,000 children, over half from vulnerable families. Working in coordination with the Ministry of Health, UNICEF expanded its financial support and technical assistance to child rights and protection networks from 14 to 65 locations. These multi-sector networks bring together government institutions, NGOs and law enforcement officials. Their main activities include: monitoring cases of child abuse and reporting them to the authorities, raising awareness of child rights and protection, strengthening local coordination, assisting children and their families with the legal process, and providing psycho-social care, rehabilitation, and reintegration.

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Through Department and USAID funding, CRS worked with the Ministry of Justice and civil society organizations from late 2006 to November 2008. The two programs, Fitia and Aina (see 26G), assisted

victims and at-risk populations in Nosy Be, Tamatave and Tulear. In addition, some support services were situated specifically around mining companies Ambatovy, QMM, and Tirinomandites. Fitia provided counseling and other social services to 203 trafficking victims who visited one of four social service centers in Tulear, Tamatave, and Nosy Be. Through the Fitia program, trafficking victims received medical, psychosocial, and/or judicial support. Project Aina was a two-year project that provided psychotherapy to 24 trafficking victims in Nosy Be and Tamatave (18 female, 6 male, 14 for sexual exploitation, 10 for labor exploitation). In addition, Aina's implementing partners were safety net centers that take in and care for trafficking victims.

PACT Madagascar, an international non-profit funded by the USDOL, developed Kilonga ("Child" in Malagasy), a program started in 2008 to fight against child labor, aiming to reach 9,000 children who already have been or may be at risk of being trafficked. Project intervention zones include the regions with the highest prevalence of the worst forms of child labor including Ft. Dauphin, Fianarantsoa, and Antsirabe in the southern half of Madagascar; Antananarivo, Moramanga, and Tamatave in the central highlands and the east; and Diego in the north.

Groupe Developpement works throughout the country to provide the following services for young female victims of commercial sexual exploitation: psychosocial services, welcome center and night shelters, remedial education, recreational alternatives, and vocational training.

In addition to networks of local NGOs, there are several French NGOs working specifically on issues affecting vulnerable children. Enfants du Monde implements activities focusing on child maltreatment and abuse, which includes trafficking. Belle Avenir educates youth, reintegrates vulnerable children into schools, coordinates a weekly trafficking film and debate, and provides income-generating activities for victims (i.e. sewing for females who were trafficked into prostitution).

127. (U) PREVENTION

(U) TIP awareness continues to increase in Madagascar through aggressive information campaigns reaching thousands. In light of the fact that many of the young people who fall into trafficking and forced labor leave school prematurely and lack awareness of their rights and economic alternatives, the government's prevention campaigns took a holistic, empowering approach by addressing a number of related issues that play a role in the overall problem. Given the absence of educational or economic alternatives in most areas where trafficking is prevalent, awareness programs sometimes fall on deaf ears, though community members have started acknowledging that trafficking exists and can identify cases.

1A. (U) The Ministries of Justice, Education, Labor, Social Protection, and Health and Family Planning (MOHFP), were involved with a variety of major national TIP campaigns.

World Day Against Child Labor, including trafficking and sexual exploitation of children, on June 12, 2008 was supplemental to ongoing efforts. The day presented an opportunity to reinforce social mobilization and deliver the message to the Malagasy public. In addition, starting in May 2008, a national campaign against child sexual exploitation and child maltreatment included key messages on sex tourism in its communication materials such as posters, a short film, and TV and radio spots.

The Ministry of Health and Family Planning: The MOHFP initiated Local Anti-Trafficking Boards or LAB Committees that began operation in 2007. Because of LABS' efforts to sensitize people on TIP-related issues, many care centers received an increasing number of cases. In partnership with the NGO Groupe Developpement, the GOM established a national campaign against child sex tourism by printing thousands of copies of posters posted in hotels in the main tourist sites in the country. Information was disseminated to over 40,000 tourists during major national events, and establishing messages in the

"Passport to Madagascar" welcome booklet given to all incoming travelers as part of the visa process include anti-trafficking messages. Efforts at the local level continued to raise awareness, sensitize, and mobilize individuals resulting in a more proactive attitude by local leaders in the detection and follow-up of child abuse cases.

The Ministry of Justice: The Ministry of Justice, with UNDP support, launched a film as part of their TIP information and prevention campaign. The film was widely distributed to sensitize government, religious, and civic authorities. The Ministry of Justice also started to permanently provide information through the media and public gatherings. In collaboration with the Ministry of Justice, CRS televised debates on TIP-related issues; organized a competition with nationally and regionally famous singers; developed a radio soap opera competition among youths mobilizing Ministry of Education regional representatives, school directors, and teachers; created and distributed 200 copies of a TIP bulletin; and developed publications of 29 TIP articles in the press. In addition, peer education mobilized youth associations, centers, and schools.

The Ministry of Labor: In May 2007, as part of the ongoing "red card campaign" to raise awareness about the fight against child labor, the government worked with the Malagasy Soccer Federation (FMF) to conduct awareness campaigns around the country; this campaign continued into 2008 with ongoing support from the FMF and ILO-IPEC.

The Ministry of Youth and Sports: The Ministry of Youth and Sports designed an internal three-year anti-TIP action plan for 2007 to 2009. Its activities in 22 target zones included raising awareness among youth through social mobilization, radio, television, and training of youth educators.

The Ministry of Internal Security: Working closely with parent and religious organizations, the Ministry of Internal Security has continued its educational and awareness raising campaigns on child exploitation, statutory rape, prostitution, and legislation concerning the protection of minors, with a particular focus on speaking to students in schools. As a result of these awareness-raising initiatives, officials have noticed the number of people stepping forward to file child-related complaints has significantly increased.

1B. (U) The GOM adequately monitors immigration and emigration patterns from Ivato International Airport in Antananarivo, but does not focus on trafficking. Madagascar is an island nation with 5,000 kilometers of porous and unprotected coastline. However, the Ministry of Justice is not aware of any allegation of international trafficking involving Malagasy victims.

Currently, border law enforcement agencies are not trained to screen for potential trafficking victims. However, UNICEF plans to include a specialized training for Air Madagascar (the national airline), personnel working at ports, and bus and taxi associations (the best opportunity for identifying victims of trafficking).

1C. (U) Since 2004, the President-led inter-ministerial anti-trafficking committee has been the principal coordination and communication mechanism on anti-trafficking activities at the central level. The committee includes representatives from the Ministries of Labor, Education, Culture, Tourism, Youth and Sports, Defense, Justice, Health/Family Planning, Foreign Affairs, Interior, and Public Security. The government Committee for the Safeguard of Integrity (CSI) that designs anti-corruption policy and BIANCO, the independent anti-corruption bureau that was launched in 2004 to conduct investigations and implement CSI directives, are members of the anti-trafficking committee.

In practice, however, the Ministry of Justice leads the national, regional, and local coordination and the follow-up of the implementation of the National Action Plan to Fight Violence against Children, including elements linked to anti-trafficking. Trafficking issues are also addressed by the National Committee to Combat Child Labor (CNLTE is the French acronym). The CNLTE features representatives from the GOM, NGOs, and civil society. Additionally, the National Social Protection and Risk Management Program is being finalized and includes adequate measures for the reinforcement or

creation of systems and structures to provide early prevention,

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reinsertion, and rehabilitation services for children.

At the regional level in high-risk trafficking zones, local interministerial anti-trafficking boards (LABs) coordinate activities and develop action plans in order to combat trafficking. These boards of about 20 members mirror the ministerial participants of the President's committee. The regional level LABs have been successful in improving anti-trafficking networking and social services.

1D. (U) The GOM adopted the National Action Plan to Fight Against All Forms of Violence against Children in December 2007, covering for the period from 2008 to 2011; this includes anti-trafficking initiatives. The Ministry of Justice is leading the implementation of this action plan. The National Action Plan to Fight Child Labor is a comprehensive policy, including TIP, covering the 15-year period from 2004 to 2019. The GOM created the National Committee to Fight Child Labor (CNLTE) and its regional counterparts in October 2004 to coordinate and implement this plan.

1E. (U) The GOM has taken a number of measures to reduce the demand for commercial sex acts. The government continued with its national awareness campaign by hanging posters throughout airports and hotels and including a full-page warning in the customs booklet given to arriving international passengers warning sex tourists of the consequences. The government publicized the trials and convictions of several sexual exploiters and pedophiles to dissuade future would-be sex tourists.

1F. (U) At time of reporting, there have been no confirmed cases of Malagasy nationals being accused of participating in international child sex tourism.

1G. (U) Madagascar provided fewer than 100 troops to international peacekeeping efforts.

TIP Hero

Post nominates Commissaire Mandimbin'ny Aina Mbolanoro RANDRIAMBELO, head of the Morals and Minors Brigade within the National Police, for her dedicated work in building capacity, advocating for change, and working with both Malagasy and international contacts to advance the fight against Trafficking in Persons. Ms. Randriambelo is extremely committed to her duties, and has the ability to motivate teams of people both in Antananarivo and the outer regions who make a difference in the country's ability to combat trafficking. She is the lead person within the Ministry of Internal Security working on this issue, and is recognized across the GOM and the international community for her high-profile work at the national level, and tireless public advocacy for this important cause.

Ms. Randriambelo has been vetted through CLASS, and has no visa ineligibilities or otherwise derogatory information.

APPENDIX: TIP LAW

The text of the law adopted in December 2007 making trafficking illegal is as follows:

"The National Assembly and the Senate have adopted the Law during their respective session on December 7, 2007, and December 17, 2007, with the following content:

Article One.- The present draft law is designed to:

- implement prevention measures against trafficking in persons, sexual exploitation and sexual tourism
- modify and complete some provisions of the Criminal Code so as to:

rule over any form of trafficking in, sale of, abduction and exploitation of persons; prevent and fight against trafficking

in persons; sanction traffickers; protect and assist trafficking in persons victims by fully respecting their basic rights, specifically to prevent women and children from becoming new victims.

CHAPTER ONE

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ON PREVENTION

Article 2.- So as to fight against trafficking in, sale of, abduction and exploitation of persons, including children, the programs, social initiatives and other measures of information, education and communication to be broadcasted through the media throughout the national territory by all authorized structures, as well as the measures of coverage by the Government, are determined by a decree issued by the Cabinet.

Article 3.- The cooperation of Non-Governmental Organizations, multi and bilateral agencies, foreign Governments, and civil society with the Government must be effective for the implementation of the established programs and measures.

Article 4.- An office, to be established within the conditions determined by a decree issued by the Cabinet will be in charge of determining the types of valid and necessary transportation documents, detecting the necessary means and methods used by any individual or group to organize the trafficking of persons.

CHAPTER II

MODIFICATIONS OF THE CRIMINAL CODE

Article 5.- After article 331, an article numbered 331 bis is included and worded as follow:

"Art. 331 bis: Anyone violating morals by exciting, enhancing or facilitating, in order to satisfy anyone's passions, debauchery, corruption or child prostitution regardless of gender, is sentenced to forced labor for life."

Article 6.- After article 333 bis, three articles numbered 333 ter, 333 quarter and 333 quinto are included and worded as follows:

"Art. 333 ter:

11. A child is defined as a human being aged below eighteen years old.

12. The phrase "trafficking in persons" refers to the hiring, transportation, transfer, accommodation or welcoming of persons through threats or use of force or other forms of constraint, abduction, fraud, deceit, oppression or abuse of a situation of vulnerability, or by offering or accepting payments of benefits in order to have the consent of a person having authority over another person for the purpose of exploitation or illegal adoption of a child by an individual called trafficker.

13. Exploitation includes the exploitation of the prostitution of any individual or other forms of sexual exploitation, non-compensated work, forced labor or services, domestic work by children, slavery or any practices similar to slavery, servitude or organ retrieval.

14. Sexual exploitation of a child, regardless of gender, for commercial purposes refers to the action through which an adult obtains services from a child to have sexual intercourse in exchange for a compensation or a benefit in kind or in cash given to the child or to one or several third parties as provided in articles 334 to 335 bis of the Criminal Code, with or without the child's consent.

15. Sexual tourism refers to the fact that a native or a foreigner is on travel, regardless of the purpose, and has sexual intercourse in exchange for a financial compensation or any other benefits with children or prostitutes, these latter themselves looking for sexual intercourse in order to obtain any benefit.

16. Pornography featuring children refers to any representation,

regardless of the means, of a child performing explicit sexual activities, genuine or simulated, or any representation of a child's sexual organs, for mainly sexual purposes.

¶17. The phrase "sale of children" refers to any action or transaction requiring the transfer of a child from a person or a group of persons to another person or another group of persons in exchange for compensation or any benefit.

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The displacement or non-return of a child is considered as illegal when there has been a violation of custody rights allocated to an individual, an institution or any other organization, alone or jointly, according to the law applicable in the State where the child had his/her usual residence immediately before his/her displacement or non-return."

"Art. 333 quarter: Trafficking in persons, including children, as well as sexual tourism and incest, constitute violations.

Is considered as a child trafficker:

¶1. Anyone who hires a child, transports him/her, transfers him/her, or accommodates him/her in exchange for compensation or any other benefit of promise of compensation or benefit, so as to make him/her available to a third party -- even unidentified, in order to allow the said child to suffer the violations provided for and sentenced by articles 334 and following on sexual aggressions and attacks, exploitation of mendacity, working or accommodation conditions against his/her dignity, even if they use none of the means stipulated in article 333 ter;

¶2. Anyone who proceeds to the illegal transportation and sale of children, regardless of the form and the purpose, namely sexual exploitation, forced labor, slavery, practices similar to slavery and servitude, with or without the victim's consent;

¶3. Anyone who, knowing for a fact the existence of pimping, sexual exploitation or sexual tourism, fails to disclose or notify the facts to the relevant authorities, in compliance with the provisions of article 69 and 70 of the law No. 2007-023 of August 20, 2007, on children's rights and protection, is considered as an accomplice.

Acts of participation are considered as separate violations."

"Art. 333 quinto: The consent of victims of trafficking in persons for exploitation is considered null and void, when any of the means listed in article 333 quarter is used."

Article 7.- After article 334 bis, three articles numbered 334 ter, 334 quarter and 334 quinto are inserted and are worded as follows:

"Art. 334 ter: Anyone who hires, involves in or abducts for prostitution, an individual even if (s)he consents, is sentenced to two (2) to five (5) years of imprisonment and a fine of USD 540 to 5,400 (1,000,000 to 10,000,000 Ariary).

If the violation has been committed on a child under fifteen years of age, regardless of gender, the perpetrator is sentenced to forced labor for life."

"Art. 334 quarter: Sexual exploitation, as defined by article 333 ter, is punishable by five (5) to ten (10) years of imprisonment and a fine of USD 2,170 to 10,800 (4,000,000 to 20,000,000 Ariary).

Any perpetrator committing sexual exploitation is sentenced to forced labor for life if committed on a child aged below fifteen years of age, regardless of gender.

If the sexual exploitation is committed for commercial purposes on a child aged below eighteen years of age, the perpetrator is sentenced to forced labor for life."

"Art. 334 quinto: Anyone who has sexual intercourse with a child in exchange for any form of compensation or benefit is sentenced to two

(2) to five (5) years of imprisonment and a fine of USD 540 to 5,400 (1,000,000 to 10,000,000 Ariary).

Any attempt to commit this crime is subject to the same sentences."

Article 8.- After article 335, nine (9) articles numbered 335.1, 335.2, 335.3, 335.4, 335.5, 335.6, 335.7, 335.8, 335.9 are included and are worded as follow:

"Art. 335.1: Any perpetrator who commits sexual tourism, as defined by article 2, 4' of the present law, is sentenced to five (5) to ten (10) year of imprisonment and a fine of USD 2,170 to 10,800 (4,000,000 to 20,000,000 Ariary).

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Any perpetrator who commits sexual tourism is sentenced to forced labor for life if committed on a child below fifteen years of age, regardless of gender.

Pornography featuring children, regardless of representation and means, or the detention of pornographic materials involving children is subject to the sentences provided for by article 334 of the Criminal Code."

"Art. 335.2: The father or mother or other ascendant, who encourages directly or indirectly child prostitution by letting a child live a liberal and independent life, thus enhancing sexual exploitation and/or tourism on the child, in a national or international setting, is sentenced to five (5) to ten (10) year of imprisonment and/or a fine of USD 2,170 to 10,800 (4,000,000 to 20,000,000 Ariary).

The same sentences apply if the perpetrator is either the brother or the sister of the underage victim or any individual holding a similar position in the family, i.e. any individual usually or occasionally living with the child and having authority over the child."

"Art. 335.3: Any sexual intercourse among close parents or siblings up to 3rd degrees, in a direct or collateral line, whose marriage is prohibited by the law; or any sexual abuse committed by the father, the mother or any other ascendant or any individual having authority over a child is considered incest.

Anyone who commits incest is sentenced to forced labor for life if the act is committed on a child.

In other cases of incest, the perpetrator is sentenced to five (5) to ten (10) year of imprisonment and a fine of USD 2,170 to 10,800 (4,000,000 to 20,000,000 Ariary).

"Art. 335.4: Anyone who has violated the rules set forth by the provisions of adoption law in order to commit an illegal adoption, a fact that constitutes trafficking in persons, shall be sentenced to forced labor for life."

"Art. 335.5: Any attempt of trafficking in persons, sexual exploitation in any form, sexual tourism and incest that has been manifested by the beginning of a completion, even if it has not been suspended or if it only missed its effects because of circumstances independent from the perpetrator's willingness, is considered as an action in itself and shall be subject to the same sentences."

"Art. 335.6: The child victim of violations related to trafficking in persons, sexual exploitation, sexual tourism and incest can, at any time, notify or apply to the public prosecution or any other competent authority, on the facts committed to him/her and claim damages for the prejudice suffered."

"Art. 335.7: Concerning violations related to trafficking in persons, sexual exploitation, sexual tourism and incest committed on a child, the prescription period of the legal proceedings starts only after the date on which the child reaches eighteen years of age.

In case the perpetrator is detained prior to the trial, the deposit

of guaranty bond as provided by articles 346 and following of the Criminal procedure code may not be used."

"Art. 335. 8: The sentences provided for the violations of trafficking, sexual exploitation, sexual tourism and incest committed on a child are pronounced immediately, regardless of the means used to exploit or abuse the victim."

"Art. 335. 9.- The sentences pronounced for the crimes related to the violations on trafficking in persons, sexual exploitation, sexual tourism and incest committed on a child may not be deferred."

Article. 9.- After article 335 bis, three articles numbered 335 ter, 335 quarter and 335 quinto, are included and are worded as follows:

"Art. 335 ter: Nationals and individuals having residence in

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Madagascar and who are involved in trafficking in persons, sexual exploitation and sexual tourism in other countries are persecuted and sentenced according to the provisions of the Criminal Code."

"Art. 335 quarter: The requests for extradition for individuals searched for a legal procedure in a foreign State are completed for violations provided for in the present law or so as to help execute a sentence related to such violation.

The procedures and principles provided by the extradition treaty in effect between the requesting State and Madagascar are applied.

In the absence of extradition treaty or legislative provisions, the extradition is completed according to the procedure and in compliance with the principles determined by the typical extradition treaty adopted by the General Assembly of the United Nations in its resolution 45/116."

CHAPTER III FINAL PROVISIONS

Article 10.- Regulatory texts will be drafted to implement the present law.

Article 11.- The present Law shall be published in the Official Journal of the Republic of Madagascar.

It shall be executed as a State law."

MARQUARD